

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DARRAN O'NEAL, ET AL.	§	
v.	§	CIVIL ACTION NO. 6:08cv181
KILGORE TEXAS POLICE DEPARTMENT, ET AL.	§	

ORDER ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES  
MAGISTRATE JUDGE

The [Report and Recommendation](#) of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this case has been presented for consideration. The Report and Recommendation recommends that Defendant Kilgore Texas Police Department's Motion to Dismiss (document [#11](#)) be granted and that the Kilgore Texas Police Department be dismissed from this lawsuit. No written objections have been filed. Instead, Plaintiffs filed a [response](#) on October 10, 2008 stating that they do not dispute the Magistrate Judge's finding that the Kilgore Police Department is not a separate legal entity with the capacity to sue and be sued. The Court therefore adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

**ORDERED** that Kilgore Texas Police Department's Motion to Dismiss (document [#11](#)) is **GRANTED** and the claims against Kilgore Texas Police Department are **DISMISSED** with prejudice.

**SIGNED this 17th day of October, 2008.**

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE